

**ORDINANCE AMENDMENT REVIEW SHEET**

**Amendment:** C20-2016-001

**Description:** Consider an amendment to Title 25 of the Land Development Code to extend the period for which the Board of Adjustment may grant special exceptions and associated fee waivers.

**Proposed Language:** See attached draft ordinance.

**Summary of proposed code changes:**

- Extends the time period for which special exceptions can be considered by the Board of Adjustment.
- Extends the time period for which a fee waiver will be granted for special exceptions.

**Background:** Initiated by Planning Commission on January 26, 2016.

In 2011, Council approved Ordinance No. 20110526-098 and amended the code to create a “special exceptions” provision in the Land Development Code that allows the Board of Adjustment to grant an exception for an existing residential structure, or portion of an existing structure, that violates a setback required under Chapter 25-2 (Zoning) if the board finds that the special exception meets the requirements of Section 25-2-476 of the current code. The intent of the ordinance was to allow residents with long-standing minor code violations for existing structures that posed no harm or adverse impacts to public health, safety, or welfare, to be granted an exception that may allow the structure to remain in place.

On January 16, 2016, the Planning Commission initiated an amendment to Title 25 of the City Code to extend the period for which the Board of Adjustment may grant special exceptions and associated fee waivers. The proposed changes would extend the period during which a special exception can be sought for one year, and waive the fee for a special exception variance application for one year.

**Staff Recommendation:** Recommended

**Board and Commission Actions**

**April 19, 2016:** Recommended by the Codes and Ordinances Subcommittee on a 4-0 vote.

**May 10, 2016:** To be reviewed by Planning Commission.

**Council Action**

**May 19, 2016:** A public hearing has been scheduled.

**Ordinance Number:** NA

**City Staff:** Leane Heldenfels **Phone:** 974-2202 **Email:** [lane.heldenfels@austintexas.gov](mailto:lane.heldenfels@austintexas.gov)

To: Code and Ordinance Subcommittee

From: Board of Adjustment Chair and Members (voted 9-0 at their 1/11 meeting to send forward this proposal)

Date: 1/11/16

Please consider extending the Special Exception and fee waiver portion of the ordinance to permit additional applications for at least another 1 year period until June 2017. See attached.

Reasons for this request:

- 1) Another year of accepting the 10 year period of evidence and fee waiver is sufficient for these structures. When this section of the ordinance was first brought forward by the Board it was assumed to be temporary, however it took some time to administer so adding one more year would be fair to the public.
- 2) The fee should be continued to be waived since often these encroachments in the spirit of allowing a period of time for these structures that the community generally doesn't have an issue with to be "legalized".

**ORDINANCE NO.****AN ORDINANCE AMENDING CITY CODE CHAPTERS 25-1 AND 25-2 RELATING TO ZONING SPECIAL EXCEPTIONS AND RELATED FEE WAIVERS FOR EXISTING RESIDENTIAL STRUCTURES.****BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Subsection (B) of City Code Section 25-1-366 (*Fee Waiver Program for Existing Residential Structures*) to read as follows:

- (B) A fee waiver or refund authorized under Subsection (A) of this section:
- (1) applies only to existing residential structures and does not cover permits for remodels, except to the extent required by the building official to address minimum life and safety requirements;
  - (2) applies only if the residential use for which a special exception is sought is allowed in an SF-3 or more restrictive zoning district;
  - (3) does not cover fees for re-inspections or for after-hours inspections; and
  - (4) expires on June 6, [2016] 2017.

**PART 2.** Subsection (B) of City Code Section 25-2-476 is amended to read:

- (B) The Board shall grant a special exception under Subsection (A) of this section if:
- (1) the residential use for which the special exception is sought is allowed in an SF-3 or more restrictive zoning district;
  - (2) the building official performs an inspection and determines that the violation does not pose a hazard to life, health, or public safety; and
  - (3) the Board finds that:
    - (a) the violation has existed for:
      - (i) at least 25 years; or
      - (ii) at least 10 years, if the application for a special exception is submitted on or before June 6, [2016] 2017;

- (b) the use is a permitted use or a nonconforming use;
- (c) the structure does not share a lot with more than one other primary residence; and
- (d) granting a special exception would not:
  - (i) alter the character of the area;
  - (ii) impair the use of adjacent property that is developed in compliance with city code; or
  - (iii) grant a special privilege that is inconsistent with other properties in the area or in the district in which the property is located.

**PART 3.** This ordinance takes effect on \_\_\_\_\_, 2016.

**PASSED AND APPROVED**

\_\_\_\_\_, 2016      §  
   §  
   §  
Steve Adler  
Mayor

**APPROVED:** \_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:** \_\_\_\_\_  
Jannette S. Goodall  
City Clerk